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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

APR 28 2005
Date:

IN RE:

Applicant

PETITION: Application for Status as a Temporary Resident pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the statutory period. The director concluded the applicant worked no more than 72 days during the required period.

On appeal, the applicant, through counsel, requested a copy of his legalization file. Citizenship and Immigration Service (CIS) complied with the request on June 2, 2004. Counsel stated that the applicant worked for many other farms during the qualifying period and that the applicant was attempting to obtain additional documentation to establish that he worked an additional 28 man-days during the qualifying period.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. § 210.3(d).

On the application, Form I-700, the applicant claimed to have worked for [REDACTED] for 53 man-days employment at Superior Farms from April 1985 to July 1985; 19 man-days employment at West Farmers from August 1985 to September 1985; and 28 man-days employment [REDACTED] from October 1985 to November 1985.

In support of his claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter signed by [REDACTED]

The director denied the application because the secretary for the [REDACTED] Company informed the Service that [REDACTED] last worked for their company in November 1983. Therefore, the director concluded that only the 53 man-day at Superior Farms and the 19 man-days at West Farmers could be considered in determining the number of man-days the applicant worked for [REDACTED]

On appeal, counsel stated that the applicant worked for many other farms during the qualifying period and that the applicant was attempting to obtain additional documentation to establish that he worked an additional 28 man-days during the qualifying period. To date, thirteen (13) years later, the applicant has claimed no additional employment for anyone nor has he submitted any documentary evidence regarding any additional employment.

The applicant's credited employment of 72 days is 18 days short of the minimum requirement of at least 90 man-days of agricultural employment performed during the eligibility period ending May 1, 1986. Consequently, the applicant is statutorily ineligible for adjustment to temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.

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[REDACTED]